

REMARKS

Claims Status

The claims in consideration are claims 1-7 and 9-19. Claims 1, 9, and 14 are the independent claims. Claims 6, 9, 10, 11, 14, 15, 16, and 17 have been amended by this amendment.

Allowable Subject Matter

Claims 9-13 have been indicated as allowable if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph. Claims 9-13 or the claims from which they depend have been amended to overcome the rejections under 35 U.S.C. §112, second paragraph.

Claims 16-19 have been indicated as allowable if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph and to include all of the limitations of the base claim or any intervening claims. Claims 16-19 or the claims from which they depend have been amended to overcome the rejections under 35 U.S.C. §112, second paragraph. However, claims 16-19 have not been rewritten to include all of the limitations of their base claim or any intervening claims because Applicants believe that they have distinguished their claims over the cited prior art.

Claim Rejections - 35 U.S.C. §112

Claims 9-13 and 15-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 9-13 and 15-19 or the claims from which they depend have been amended to overcome the rejections under 35 U.S.C. §112, second paragraph. Reconsideration is respectfully requested.

Claim Rejections - 35 U.S.C. §102

Claims 1-7 and 14-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by United States No. 5,322,346 to Notta et al. (hereinafter "Notta et al."). Claims 1 and 14 are the independent claims involved in this rejection. Claims 2-7 and 15 depend from either claim 1 or 14 and therefore are distinguished over the prior art in the same way as claims 1 and 14 are distinguished as discussed below and are further distinguished over the prior art given the subject matter claimed in each such dependant claim.

The Applicants' claim 1 reads a "device to actuate a drive gear of an adjustment mechanism of a seat with a stepped

switching mechanism manually operable in two directions by means of a swiveling lever that is rotationally connected with said drive gear in order to rotate it, comprising a release mechanism providing a releasable rotational connection between said stepped switching mechanism and said drive gear such that when **said release mechanism is activated, said drive gear is not in contact with any other gears and may rotate freely about a horizontal tilt axis.**" (Claim 1, emphasis added).

The Applicants claim 14 now reads, *inter alia*, a "seat mechanism to rotate a seat back relative to a seat body about a horizontal tilt axis comprising...an engagement mechanism in communication with said swivel lever such that when said swivel lever is rotated, **said drive gear is not in communication with any of the other of said plurality of gears** and whereby said seat back is freely rotatable about said horizontal tilt axis." (Claim 14, emphasis added).

The independent claims involved in this rejection claim a drive gear not in communication or contact with any of the other gears after the release or engagement mechanism is activated. The Applicants' claim a novel arrangement not found in the cited prior art.

The Examiner indicates that Notta et al. discloses a release mechanism (10) that provides a releasable rotational connection between the stepped switching mechanism (11) and the drive gear (6) in that when the release mechanism (10) is activated, the drive gear (6) is not in contact with any other gears and the drive gear is free to rotate about a horizontal tilt axis (4). (see Office Action, dated September 10, 2003, page 3, citing Figure 4).

The Examiner refers to Figure 4 for the proposition that Notta et al. discloses a drive gear (6) that is not in contact with any other gears (i.e., 7 or 8). However, Fig. 4 shows the drive gear (6) in contact with intermediate gear (7) during activation of the release mechanism (10). Further, nowhere in Notta et al. does it show or disclose a drive gear (6) that is not in contact with intermediate gear 7. In contrast, the Applicants claim a drive gear that is not in contact with any other gear during activation of a release mechanism. Because Notta et al. teaches a drive gear in contact with other gears during activation of the release mechanism, Notta et al. teaches away from the Applicants' claimed invention.

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A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *In re Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed.Cir. 1987). The identical invention must be shown in as complete detail as contained in the ... claim. *In re Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by the claim. M.P.E.P. § 2131.

In this case, as explained above, all of the elements in the Applicants' claim are not found in the prior art. Moreover, the elements are not arranged as required by the claim. Reconsideration is respectfully requested.

In view of the foregoing, the Applicants submit that all pending claims are in condition for allowance in early and favorable action on the merits is respectfully requested.

The Examiner is invited to telephone the undersigned, Applicant's Attorney of Record, to facilitate advancement of the present application.

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Respectfully submitted,

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